

# HOUSE . . . . . No. 866

By Mr. Vallee of Franklin, petition of James E. Vallee and others relative to repeat offenders driving under the influence of alcoholic beverages. The Judiciary.

## The Commonwealth of Massachusetts

### PETITION OF:

James E. Vallee	Bradley H. Jones, Jr.
Todd M. Smola	James B. Eldridge
Reed V. Hillman	Frank M. Hynes
Scott P. Brown	Brian Paul Golden
William C. Galvin	Walter F. Timilty

In the Year Two Thousand and Five.

### AN ACT RELATIVE TO REPEAT OFFENDERS.

1     *Whereas*, The deferred operation of this act would tend to  
2     defeat its purpose, which is to avoid loss of life and to avoid a  
3     transfer penalty of federal highway funds pursuant to the Federal  
4     Transportation Equity Act, 23 U.S.C. section 163, therefore it is  
5     hereby declared to be an emergency law, necessary for the im-  
1     mediate preservation of the public safety.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

2     SECTION 1. Section 24 of chapter 90 of the General Laws, as  
3     appearing in the 2002 Official Edition, is hereby amended by  
4     inserting after the word “drivers.”, in line 81, the following para-  
5     graph:—

6     A mandatory condition of any probation or parole that may be  
7     ordered as a result of this paragraph is that the offender shall have  
8     an alcohol assessment conducted by the department of public  
9     health. The assessment shall include, but need not be limited to,  
10    an assessment of the level of the offender’s addiction to alcohol or  
11    drugs, and the department’s recommended course of treatment.  
12    Such assessment shall be reported to the offender’s probation or

13 parole officer, and the recommendations contained therein shall  
14 become a mandatory condition of his probation or parole. No  
15 person shall be excluded from an assessment or recommended  
16 course of treatment for inability to pay, if the offender files an  
17 affidavit of indigency or inability to pay with the court, investiga-  
18 tion by the probation or parole officer confirms such indigency or  
19 establishes that such payment would cause a grave and serious  
20 hardship to the offender or his family, and the court enters written  
21 findings thereof. The department of public health may make such  
22 rules and regulations as are necessary to accomplish the intent of  
23 this assessment.

1 SECTION 2. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by inserting after the word  
3 “drivers.”, in line 115, the following paragraph:—

4 A mandatory condition of any probation or parole that may be  
5 ordered as a result of this paragraph is that the offender shall have  
6 an alcohol assessment conducted by the department of public  
7 health. The assessment shall include, but need not be limited to,  
8 an assessment of the level of the offender’s addiction to alcohol or  
9 drugs, and the department’s recommended course of treatment.  
10 Such assessment shall be reported to the offender’s probation or  
11 parole officer, and the recommendations contained therein shall  
12 become a mandatory condition of his probation or parole. No  
13 person shall be excluded from said assessment or recommended  
14 course of treatment for inability to pay, if the offender files an  
15 affidavit of indigency or inability to pay with the court, the inves-  
16 tigation by the probation or parole officer confirms such indigency  
17 or establishes that such payment would cause a grave and serious  
18 hardship to the offender or his family, and the court enters written  
19 findings thereof. The department of public health may make such  
20 rules and regulations as are necessary to accomplish the intent of  
21 this assessment.

1 SECTION 3. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by inserting after the word  
3 “drivers.”, in line 148, the following paragraph:—

4 A mandatory condition of any probation or parole that may be  
5 ordered as a result of this paragraph is that the offender shall have  
6 an alcohol assessment conducted by the department of public

7 health. The assessment will include, but need not be limited to, an  
8 assessment of the level of the offender's addictions to alcohol or  
9 drugs, and the department's recommended course of treatment.  
10 Such assessment shall be reported to the offender's probation or  
11 parole officer, and the recommendations contained therein shall  
12 become a mandatory condition of his probation or parole. No  
13 person shall be excluded from said assessment or recommended  
14 course of treatment for inability to pay, provided that the offender  
15 files an affidavit of indigency or inability to pay with the court,  
16 that investigation by the probation or parole officer confirms such  
17 indigency or establishes that such payment would cause a grave  
18 and serious hardship to the offender or his family, and that the  
19 court enters written findings thereof. The department of public  
20 health may make such rules and regulations as are necessary to  
21 accomplish the intent of this assessment.

1 SECTION 4. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by inserting after the word  
3 "drivers.", in line 182, the following paragraph:—

4 A mandatory condition of any probation or parole that may be  
5 ordered as a result of this paragraph is that the offender shall have  
6 an alcohol assessment conducted by the department of public  
7 health. The assessment will include, but need not be limited to, an  
8 assessment of the level of the offender's addictions to alcohol or  
9 drugs, and the department's recommended course of treatment.  
10 Such assessment shall be reported to the offender's probation or  
11 parole officer, and the recommendations contained therein shall  
12 become a mandatory condition of his probation or parole. No  
13 person shall be excluded from said assessment or recommended  
14 course of treatment for inability to pay, provided that the offender  
15 files an affidavit of indigency or inability to pay with the court,  
16 that investigation by the probation or parole officer confirms such  
17 indigency or establishes that such payment would cause a grave  
18 and serious hardship to offender or his family, and that the court  
19 enters written findings thereof. The department of public health  
20 may make such rules and regulations as are necessary to accom-  
21 plish the intent of this assessment.

1 SECTION 5. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by striking out, in lines 351

3 to 352, the words “six months” and inserting in place thereof the  
4 following words:— 1 year.

1 SECTION 6. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by striking out, in line 363,  
3 the words “one year” and inserting in place thereof the following  
4 words:— 18 months.

1 SECTION 7. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by inserting after the word  
3 “necessary” in line 370 the following:—

4 A mandatory condition of any hardship license granted by the  
5 registrar pursuant to this paragraph shall be that the person have  
6 an ignition interlock device installed on every vehicle owned by  
7 the person and on every vehicle operated by the person, under  
8 such terms or conditions as the registrar may prescribe. Every  
9 person whose license has been suspended pursuant to this para-  
10 graph shall be required to provide proof to the registrar of installa-  
11 tion of an ignition interlocking device on every vehicle owned and  
12 operated by the person, under such terms and conditions as the  
13 registrar may prescribe, in order for said person’s license or right  
14 to operate being reinstated upon the completion of the suspension  
15 period.

1 SECTION 8. Said section 24 of said chapter 90, as so  
2 appearing, is hereby further amended by inserting after the word  
3 “necessary” in line 399 the following:—

4 A mandatory condition of any hardship license granted by the  
5 registrar pursuant to this paragraph shall be that the person have  
6 an ignition interlock device installed on every vehicle owned by  
7 the person and on every vehicle operated by the person, under  
8 such terms or conditions as the registrar may prescribe. Every  
9 person whose license has been suspended pursuant to this para-  
10 graph shall be required to provide proof to the registrar of installa-  
11 tion of an ignition interlocking device on every vehicle owned and  
12 operated by the person, under such terms and conditions as the  
13 registrar may prescribe, in order for said person’s license or right  
14 to operate being reinstated upon the completion of the suspension  
15 period.

1     SECTION 9. Said section 24 of said chapter 90, as so  
2     appearing, is hereby further amended by inserting after the word  
3     “necessary” in line 425 the following:—

4     A mandatory condition of any hardship license granted by the  
5     registrar pursuant to this paragraph shall be that the person have  
6     an ignition interlock device installed on every vehicle owned by  
7     the person and on every vehicle operated by the person, under  
8     such terms or conditions as the registrar may prescribe. Every  
9     person whose license has been suspended pursuant to this para-  
10    graph shall be required to provide proof to the registrar of installa-  
11    tion of an ignition interlocking device on every vehicle owned and  
12    operated by the person, under such terms and conditions as the  
13    registrar may prescribe, in order for said person’s license or right  
14    to operate being reinstated upon the completion of the suspension  
15    period.

1     SECTION 10. Said section 24 of said chapter 90, as so  
2     appearing, is hereby amended by inserting at the end thereof the  
3     following section:—

4     Notwithstanding the provisions of any section of this chapter,  
5     any person who after being administered the chemical test set  
6     forth in this section and such evidence indicates that the per-  
7     centage was fifteen one hundredths or more and the person is  
8     before the court for the first time for such offense, the court shall  
9     upon conviction order an alcohol assessment conducted by the  
10    department of public health. The assessment will include, but  
11    need not be limited to, an assessment of the level of the offender’s  
12    addictions to alcohol or drugs, and the department’s recommended  
13    course of treatment. No person shall be excluded from said assess-  
14    ment or recommended course of treatment for inability to pay,  
15    provided that the offender files an affidavit of indigency or  
16    inability to pay with the court, that investigation by the probation  
17    or parole officer confirms such indigency or establishes that such  
18    payment would cause a grave and serious hardship to offender or  
19    his family, and that the court enters written findings thereof. The  
20    department of public health may make such rules and regulations  
21    as are necessary to accomplish the intent of this assessment.